

BEFORE THE TENNESSEE STATE BOARD OF EQUALIZATION

IN RE:	Dean W. Stickney)
	Dist. 2, Map 105P, Group E, Control Map 105P,) Campbell County
	Parcel 3.00, S.I. 000)
	Farm Property)
	Tax Year 2005)

INITIAL DECISION AND ORDER

Statement of the Case

The subject property is presently valued as follows:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$392,000	\$ -0-	\$392,000	\$98,000

An appeal has been filed on behalf of the property owner with the State Board of Equalization. The undersigned administrative judge conducted a hearing in this matter on March 1, 2006 in Knoxville, Tennessee. In attendance at the hearing were Mr. and Mrs. Stickney and Campbell County Property Assessor's representatives Clark Ford and Brandon Parten.

FINDINGS OF FACT AND CONCLUSIONS OF LAW

Subject property consists of an unimproved 25.6 acre tract located in a gated community on Deerwood Lane in LaFollette, Tennessee.

The taxpayer contended that subject property should be valued at \$300,000. In support of this position, the taxpayer argued that he purchased subject property in conjunction with a Section 1031 exchange on May 3, 2005 for \$300,000.

The assessor contended that subject property should be valued at \$392,000. In support of this position, the assessor argued that subject property was not offered for sale on the open market and Mr. Stickney had a personal relationship with the seller. Mr. Ford asserted subject tract would command \$392,000 if offered for sale on the open market.

I. Jurisdiction

The first issue before the administrative judge concerns jurisdiction. This issue arises from the fact that the disputed appraisal was not appealed to the Campbell County Board of Equalization.

The administrative judge finds that Tennessee law requires a taxpayer to appeal an assessment to the County Board of Equalization prior to appealing to the State Board of Equalization. Tenn. Code Ann. §§ 67-5-1401 & 67-5-1412(b). A direct appeal to the State Board is permitted only if the assessor does not timely notify the taxpayer of a change of

assessment prior to the meeting of the County Board. Tenn. Code Ann. §§ 67-5-508(a)(3) & 67-5-903(c). Nevertheless, the legislature has also provided that:

The taxpayer shall have right to a hearing and determination to show reasonable cause for the taxpayer's failure to file an appeal as provided in this section and, upon demonstrating such reasonable cause, the [state] board shall accept such appeal from the taxpayer up to March 1 of the year subsequent to the year in which the assessment was made.

Tenn. Code Ann. § 67-5-1412(e). The Assessment Appeals Commission, in interpreting this section, has held that:

The deadlines and requirements for appeal are clearly set out in the law, and owners of property are charged with knowledge of them. It was not the intent of the 'reasonable cause' provisions to waive these requirements except where the failure to meet them is due to illness or other circumstances beyond the taxpayer's control.

Associated Pipeline Contractors, Inc., Williamson County, Tax Year 1992, Assessment Appeals Commission (Aug. 11, 1994). See also *John Orovets*, Cheatham County, Tax Year 1991, Assessment Appeals Commission (Dec. 3, 1993). Thus, for the State Board of Equalization to have jurisdiction in this appeal, the taxpayer must show that circumstances beyond its control prevented it from appealing to the Campbell County Board of Equalization.

The taxpayer stated that he did not appeal to the Campbell County Board of Equalization because he was not aware that the appraisal had increased until receiving the tax bill. The taxpayer testified that this resulted from the fact the assessment change notice was sent to the seller.

The administrative judge finds that the assessment change notice was properly sent to the owner of record as of the relevant assessment date, January 1, 2005. However, the administrative judge finds that the Assessment Appeals Commission has found reasonable cause in essentially identical factual situations because the post-assessment date buyer constitutes the real party in interest. See, e.g., *Vivian & Russ Ragsdale* (Davidson Co., Tax Year 2001) (Final Decision and Order, August 13, 2003). Accordingly, the administrative judge finds that the taxpayer established reasonable cause for not appealing to the local board and the State Board of Equalization therefore has jurisdiction.

II. Value

The basis of valuation as stated in Tennessee Code Annotated Section 67-5-601(a) is that "[t]he value of all property shall be ascertained from the evidence of its sound, intrinsic and immediate value, for purposes of sale between a willing seller and a willing buyer without consideration of speculative values . . ."

Since the taxpayer is appealing from the determination of the Campbell County Board of Equalization, the burden of proof is on the taxpayer. See State Board of Equalization Rule 0600-1-.11(1) and *Big Fork Mining Company v. Tennessee Water Quality Control Board*, 620 S.W.2d 515 (Tenn. App. 1981).

The administrative judge finds that the taxpayer's purchase of subject property on May 3, 2005 cannot provide a basis of valuation for at least three reasons. First, January 1, 2005 constitutes the relevant assessment date pursuant to Tenn. Code Ann. § 67-5-504(a). The administrative judge finds that events occurring after that date are not relevant. See *Acme Boot Company and Ashland City Industrial Corporation* (Cheatham County - Tax Year 1989) wherein the Assessment Appeals Commission ruled that "[e]vents occurring after [the assessment] date are not relevant unless offered for the limited purpose of showing that assumptions reasonably made on or before the assessment date have been borne out by subsequent events." Final Decision and Order at 3. Second, even if the sale was relevant, one sale does not necessarily establish market value. As observed by the Arkansas Supreme Court in *Tuthill v. Arkansas County Equalization Board*, 797, S. W. 2d 439, 441 (Ark. 1990);

Certainly, the current purchase price is an important criterion of market value, but it alone does not conclusively determine the market value. An unwary purchaser might pay more than market value for a piece of property, or a real bargain hunter might purchase a piece of property solely because he is getting it for less than market value, and one such isolated sale does not establish market value.

Third, and perhaps most importantly, subject property was never exposed for sale on the open market. The administrative judge finds Mr. Stickney testified he had a prior relationship with the seller and the property was never offered for sale to the general public.

ORDER

It is therefore ORDERED that the following value and assessment be adopted for tax year 2005:

<u>LAND VALUE</u>	<u>IMPROVEMENT VALUE</u>	<u>TOTAL VALUE</u>	<u>ASSESSMENT</u>
\$392,000	\$ -0-	\$392,000	\$98,000

It is FURTHER ORDERED that any applicable hearing costs be assessed pursuant to Tenn. Code Ann. § 67-5-1501(d) and State Board of Equalization Rule 0600-1-.17.

Pursuant to the Uniform Administrative Procedures Act, Tenn. Code Ann. §§ 4-5-301—325, Tenn. Code Ann. § 67-5-1501, and the Rules of Contested Case Procedure of the State Board of Equalization, the parties are advised of the following remedies:

1. A party may appeal this decision and order to the Assessment Appeals Commission pursuant to Tenn. Code Ann. § 67-5-1501 and Rule 0600-1-.12

of the Contested Case Procedures of the State Board of Equalization. Tennessee Code Annotated § 67-5-1501(c) provides that an appeal **“must be filed within thirty (30) days from the date the initial decision is sent.”** Rule 0600-1-.12 of the Contested Case Procedures of the State Board of Equalization provides that the appeal be filed with the Executive Secretary of the State Board and that the appeal **“identify the allegedly erroneous finding(s) of fact and/or conclusion(s) of law in the initial order”**; or

2. A party may petition for reconsideration of this decision and order pursuant to Tenn. Code Ann. § 4-5-317 within fifteen (15) days of the entry of the order. The petition for reconsideration must state the specific grounds upon which relief is requested. The filing of a petition for reconsideration is not a prerequisite for seeking administrative or judicial review; or
3. A party may petition for a stay of effectiveness of this decision and order pursuant to Tenn. Code Ann. § 4-5-316 within seven (7) days of the entry of the order.

This order does not become final until an official certificate is issued by the Assessment Appeals Commission. Official certificates are normally issued seventy-five (75) days after the entry of the initial decision and order if no party has appealed.

ENTERED this 10th day of March, 2006.



MARK J. MINSKY
ADMINISTRATIVE JUDGE
TENNESSEE DEPARTMENT OF STATE
ADMINISTRATIVE PROCEDURES DIVISION

c: Mr. Dean W. Stickney
Billy Hicks, Assessor of Property